



General Assembly

January Session, 2011

Raised Bill No. 1189

LCO No. 4441

04441_____GAE

Referred to Committee on Government Administration and Elections

Introduced by:
(GAE)

AN ACT CONCERNING STATE CONTRACTING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 4-250 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 As used in sections 4-250 to 4-252:

4 (1) "Gift" has the same meaning as provided in section 1-79, except
5 that the exclusion in subdivision (12) of subsection (e) of [said] section
6 1-79 for a gift for the celebration of a major life event shall not apply;

7 (2) "Quasi-public agency", "public official" and "state employee"
8 have the same meanings as provided in section 1-79;

9 (3) "State agency" means any office, department, board, council,
10 commission, institution or other agency in the executive, legislative or
11 judicial branch of state government;

12 (4) "Large state contract" means an agreement or a combination or
13 series of agreements between a state agency or a quasi-public agency

14 and a person, firm or corporation, having a total value of more than
15 five hundred thousand dollars in a calendar or fiscal year, for (A) a
16 project for the construction, alteration or repair of any public building
17 or public work, (B) services, including, but not limited to, consulting
18 and professional services, (C) the procurement of supplies, materials or
19 equipment, (D) a lease, or (E) a licensing arrangement. The term "large
20 state contract" [shall] does not include a contract between a state
21 agency or a quasi-public agency and a political subdivision of the state;

22 (5) "Principals and key personnel" means officers, directors,
23 shareholders, members, partners and managerial employees; and

24 (6) "Participated substantially" means participation that is direct,
25 extensive and substantive, and not peripheral, clerical or ministerial.

26 Sec. 2. Section 4e-1 of the general statutes is repealed and the
27 following is substituted in lieu thereof (*Effective from passage*):

28 For the purposes of sections 4e-1 to 4e-47, inclusive:

29 (1) "Best value selection" means a contract selection process in which
30 the award of a contract is based on a combination of quality, timeliness
31 and cost factors;

32 (2) "Bid" means an offer, submitted in response to an invitation to
33 bid, to furnish supplies, materials, equipment, construction or
34 contractual services to a state contracting agency under prescribed
35 conditions at a stated price;

36 (3) "Bidder" means a business submitting a bid in response to an
37 invitation to bid by a state contracting agency;

38 (4) "Business" means any individual or sole proprietorship,
39 partnership, firm, corporation, trust, limited liability company, limited
40 liability partnership, joint stock company, joint venture, association or
41 other legal entity through which business for profit or not-for-profit is
42 conducted;

43 (5) "Competitive bidding" means the submission of prices by a
44 business competing for a contract to provide supplies, materials,
45 equipment or contractual services to a state contracting agency, under
46 a procedure in which the contracting authority does not negotiate
47 prices, as set forth in any provisions of the general statutes and
48 regulations concerning procurement;

49 (6) "Consultant" means (A) any architect, professional engineer,
50 landscape architect, land surveyor, accountant, interior designer,
51 environmental professional or construction administrator, who is
52 registered or licensed to practice such person's profession in
53 accordance with the applicable provisions of the general statutes, (B)
54 any planner or any environmental, management or financial specialist,
55 or (C) any person who performs professional work in areas including,
56 but not limited to, educational services, medical services, information
57 technology and real estate appraisal;

58 (7) "Consultant services" means those professional services rendered
59 by a consultant and any incidental services that a consultant and those
60 in the consultant's employ are authorized to perform;

61 (8) "Contract" or "state contract" means an agreement or a
62 combination or series of agreements between a state contracting
63 agency or quasi-public agency and a business for:

64 (A) A project for the construction, reconstruction, alteration,
65 remodeling, repair or demolition of any public building, public work,
66 mass transit, rail station, parking garage, rail track or airport;

67 (B) Services, including, but not limited to, consultant and
68 professional services;

69 (C) The acquisition or disposition of personal property;

70 (D) The provision of goods and services, including, but not limited
71 to, the use of purchase of services contracts and personal service
72 agreements;

73 (E) The provision of information technology, state agency
74 information system or telecommunication system facilities, equipment
75 or services;

76 (F) A lease; or

77 (G) A licensing agreement;

78 "Contract" or "state contract" does not include a contract between a
79 state agency or a quasi-public agency and a political subdivision of the
80 state;

81 (9) "Term contract" means the agreement reached when the state
82 accepts a bid or proposal to furnish supplies, materials, equipment or
83 contractual services at a stated price for a specific period of time in
84 response to an invitation to bid;

85 (10) "Contract risk assessment" means (A) the identification and
86 evaluation of loss exposures and risks, including, but not limited to,
87 business and legal risks associated with the contracting process and
88 the contracted goods and services, and (B) the identification,
89 evaluation and implementation of measures available to minimize
90 potential loss exposures and risks;

91 (11) "Contractor" means any business that is awarded, or is a
92 subcontractor under, a contract or an amendment to a contract with a
93 state contracting agency under the applicable provisions of the general
94 statutes and regulations concerning procurement, including, but not
95 limited to, a small contractor, minority business enterprise, an
96 individual with a disability, as defined in section 4a-60, or an
97 organization providing products and services by persons with
98 disabilities;

99 (12) "Contractual services" means the furnishing of labor by a
100 contractor, not involving the delivery of a specific end product other
101 than reports, which are merely incidental to the required performance
102 and includes any and all laundry and cleaning service, pest control

103 service, janitorial service, security service, the rental and repair, or
104 maintenance, of equipment, machinery and other state-owned
105 personal property, advertising and photostating, mimeographing,
106 human services and other service arrangements where the services are
107 provided by persons other than state employees. "Contractual services"
108 includes the design, development and implementation of technology,
109 communications or telecommunications systems or the infrastructure
110 pertaining thereto, including hardware and software and services for
111 which a contractor is conferred a benefit by the state, whether or not
112 compensated by the state. "Contractual services" does not include
113 employment agreements or collective bargaining agreements;

114 (13) "Data" means recorded information, regardless of form or
115 characteristic;

116 (14) "Vote of two-thirds of the members of the board present and
117 voting" means a vote by the State Contracting Standards Board that is
118 agreed upon by two-thirds of the members of the State Contracting
119 Standards Board present and voting for a particular purpose and that
120 includes the vote of one member of the board appointed by a
121 legislative leader;

122 (15) "Electronic" means electrical, digital, magnetic, optical,
123 electromagnetic, or any other similar technology;

124 (16) "Emergency procurement" means procurement by a state
125 contracting agency, quasi-public agency, as defined in section 1-120,
126 judicial department or constituent unit of higher education that is
127 made necessary by a sudden, unexpected occurrence that poses a clear
128 and imminent danger to public safety or requires immediate action to
129 prevent or mitigate the loss or impairment of life, health, property or
130 essential public services or in response to a court order, settlement
131 agreement or other similar legal judgment;

132 (17) "Equipment" means personal property of a durable nature that
133 retains its identity throughout its useful life;

134 (18) "Materials" means items required to perform a function or used
135 in a manufacturing process, particularly those incorporated into an
136 end product or consumed in its manufacture;

137 (19) "Nonprofit agency" means any organization that is not a for-
138 profit business under 501(c)(3) of the Internal Revenue Code of 1986, or
139 any subsequent corresponding internal revenue code of the United
140 States, as from time to time amended, makes no distribution to its
141 members, directors or officers and provides services contracted for by
142 (A) the state, or (B) a nonstate entity;

143 (20) "Professional services" means any type of service to the public
144 that requires that members of a profession rendering such service
145 obtain a license or other legal authorization as a condition precedent to
146 the rendition thereof, including, but not limited to, the professional
147 services of architects, professional engineers, or jointly by architects
148 and professional engineers, landscape architects, certified public
149 accountants and public accountants, land surveyors, attorneys-at-law,
150 psychologists, licensed marital and family therapists, licensed
151 professional counselors and licensed clinical social workers as well as
152 such other professional services described in section 33-182a;

153 (21) "Privatization contract" means an agreement or series of
154 agreements between a state contracting agency and a person or entity
155 in which such person or entity agrees to provide services that are
156 substantially similar to and in lieu of services provided, in whole or in
157 part, by state employees, other than contracts with a nonprofit agency,
158 which are in effect as of January 1, 2009, and which through a renewal,
159 modification, extension or rebidding of contracts continue to be
160 provided by a nonprofit agency;

161 (22) "Procurement" means contracting for, buying, purchasing,
162 renting, leasing or otherwise acquiring or disposing of, any supplies,
163 services, including but not limited to, contracts for purchase of services
164 and personal service agreements, interest in real property, or
165 construction, and includes all government functions that relate to such

166 activities, including best value selection and qualification based
167 selection;

168 (23) "Proposer" means a business submitting a proposal to a state
169 contracting agency in response to a request for proposals or other
170 competitive sealed proposal;

171 (24) "Public record" means a public record, as defined in section 1-
172 200;

173 (25) "Qualification based selection" means a contract selection
174 process in which the award of a contract is primarily based on an
175 assessment of contractor qualifications and on the negotiation of a fair
176 and reasonable price;

177 (26) "Regulation" means regulation, as defined in section 4-166;

178 (27) "Request for proposals" means all documents, whether attached
179 or incorporated by reference, utilized for soliciting proposals;

180 (28) "State contracting agency" means any executive branch agency,
181 board, commission, department, office, institution or council. "State
182 contracting agency" does not include the judicial branch, the legislative
183 branch, the offices of the Secretary of the State, the State Comptroller,
184 the Attorney General, the State Treasurer, with respect to their
185 constitutional functions, any state agency with respect to contracts
186 specific to the constitutional and statutory functions of the office of the
187 State Treasurer. For the purposes of section 4e-16, state contracting
188 agency includes any constituent unit of the state system of higher
189 education;

190 (29) "Subcontractor" means a subcontractor of a contractor for work
191 under a contract or an amendment to a contract;

192 (30) "Supplies" means any and all articles of personal property,
193 including, but not limited to, equipment, materials, printing, insurance
194 and leases of real property, excluding land or a permanent interest in

195 land furnished to or used by any state agency;

196 (31) "Infrastructure facility" means a building, structure or network
 197 of buildings, structures, pipes, controls and equipment that provide
 198 transportation, utilities, public education or public safety services.
 199 Infrastructure facility includes government office buildings, public
 200 schools, jails, water treatment plants, distribution systems and
 201 pumping stations, wastewater treatment plants, collections systems
 202 and pumping stations, solid waste disposal plants, incinerators,
 203 landfills, and related facilities, public roads and streets, highways,
 204 public parking facilities, public transportation systems, terminals and
 205 rolling stock, rail, air and water port structures, terminals and
 206 equipment; and

207 (32) "State employee" means state employee, as defined in section 5-
 208 154 and, for purposes of section 4e-16, state employee includes an
 209 employee of any state contracting agency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	4-250
Sec. 2	<i>from passage</i>	4e-1

Statement of Purpose:

To make technical changes to provisions of the general statutes concerning state contracting.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]